

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I concerning large-stakes card	)	PROPOSED ADOPTION AND
game tournaments, NEW RULE II	)	AMENDMENT
concerning small-stakes card game	)	
tournaments, and amendment of	)	
ARM 23.16.102, 23.16.103,	)	
23.16.107, 23.16.110, 23.16.401,	)	
23.16.407, 23.16.502, 23.16.1101,	)	
23.16.1201, 23.16.1216, 23.16.1224,	)	
23.16.1225, 23.16.1232, 23.16.1237,	)	
23.16.1240, 23.16.1701, 23.16.1702,	)	
23.16.1703, 23.16.1704, 23.16.1705,	)	
23.16.1712, 23.16.1713, 23.16.1714,	)	
23.16.1716, 23.16.1719, 23.16.1826,	)	
23.16.1826A, 23.16.1906,	)	
23.16.1913, 23.16.1914, 23.16.1915,	)	
23.16.1916, 23.16.1916A,	)	
23.16.1918, 23.16.1929, 23.16.2001,	)	
and 23.16.3103 concerning grounds	)	
for denial of gambling license, permit	)	
or authorization; confiscation of	)	
temporary dealer license; card game	)	
tournament rules; how to acquire the	)	
official Montana poker rule book;	)	
player restrictions; dealer restrictions;	)	
house players; operation of the	)	
games – table stakes; betting; posting	)	
of rules and pot limits; definitions;	)	
sports pool cards; maximum price of	)	
sports pool chances; determination of	)	
sports pool winners – prizes;	)	
authorized sports pool prize value;	)	
sports tab game conduct; maximum	)	
price of sports tab; sports tab game	)	
prize value; sports tab game seller	)	
record keeping requirements – decal	)	
inventories; quarterly reporting	)	
requirements; reporting frequency for	)	
approved Tier I automated	)	
accounting systems; general software	)	
specifications for video gambling	)	
machines; testing fees; repairing	)	
machines – approval; casino night	)	
prizes; and web site address access	)	

to forms )

TO: All Concerned Persons

1. On August 15, 2013, at 9:00 a.m., the Montana Department of Justice will hold a public hearing in the conference room at the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Justice no later than 5:00 p.m. on August 9, 2013, to advise us of the nature of the accommodation that you need. Please contact Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; Montana Relay Service 711; or e-mail [rask@mt.gov](mailto:rask@mt.gov).

3. The proposed new rules provide as follows:

NEW RULE I LARGE-STAKES CARD GAME TOURNAMENTS (1) A licensed operator with a permit to operate at least one live card game table on premises may apply to the department for an annual permit to conduct large-stakes card game tournaments. The application must be submitted on Form 14A, the large-stakes card game tournament permit application, which is available from the department. The annual permit fee must accompany the submission of the application. A large-stakes card game tournament permit is effective July 1 through June 30.

(2) A licensed operator who has been issued a large-stakes card game tournament permit may conduct no more than 16 large-stakes poker tournaments during the permit year.

(3) A large-stakes card game tournament may be conducted for no more than five consecutive days.

(4) The only consideration that may be paid by a participant in a large-stakes card game tournament is an entry fee, and if allowed by tournament rules, a fee paid to reenter the tournament after the participant has been eliminated from competition. Under no circumstances may the total amount paid to participate in a large-stakes card game tournament, including all entry and reentry fees, exceed \$1,875.

(5) The department must receive notification on Form 14A of each large-stakes card game tournament at least five business days before the start of the tournament. The permit holder may submit the complete notification Form 14A to the department by mail, FAX or e-mail. The notification of a large-stakes card game tournament must state:

- (a) permit holder's name and operator's license number;
- (b) type of card game to be played;
- (c) number of tables to be used during the tournament;
- (d) date(s) of the tournament;

- (e) amount of entry fee and reentry fees;
  - (f) description of all prizes, including the amount of any cash prizes;
  - (g) whether it is a charitable tournament, including identification of all charitable beneficiaries;
  - (h) whether it is part of a progressive tournament, including identification of all other locations participating in the progressive tournament;
  - (i) the face value of the chips to be used; and
  - (j) a copy of all tournament rules not included in the Poker Tournament Directors Association Rules.
- (6) The department will mail the licensee a permit for each approved large-stakes card game tournament. The large-stakes card game permit must be conspicuously posted in the same manner as the tournament rules posted as provided for in 23-5-317, MCA.
- (7) A large-stakes card game tournament permit holder may conduct a large-stakes card game tournament for charitable purposes.
- (a) Any large-stakes card game tournament held for charitable purposes must be publicly identified as a charitable tournament and the beneficiaries of the tournament must be publicly identified before the start of the tournament.
- (b) If a large-stakes card game tournament permit holder conducts large-stakes card game tournaments for charitable purposes, the first three charitable tournaments conducted during a permit year will not be deducted from the permit holder's annual 16-tournament limit.
- (c) If a large-stakes card game tournament is publicly identified as a charitable tournament, no less than 50% of the total of all entry and reentry fees must be paid to charitable, educational, or recreational nonprofit organization(s).
- (8) A large-stakes card game tournament may be part of a progressive card game tournament in which the ultimate prize is not awarded until completion of the final round of the progressive tournament.
- (a) The tournament must be publicly identified as being part of a progressive tournament prior to initiation of the tournament.
- (b) Each location that participates in the progressive tournament must obtain a large-stakes card game tournament permit.
- (c) If the tournament is part of a progressive tournament, prize(s) may include the right to participate in the higher level of tournament play, so long as the value of the higher level tournament is equal to the value of the expected top prize in the tournament.

AUTH: 23-5-115, MCA  
IMP: 23-5-317, MCA

RATIONALE AND JUSTIFICATION: The 2013 Legislature enacted HB 141, which in part authorized the creation of a two-tiered permit system for live card game tournaments, designated as "large-stakes" and "small-stakes" tournaments. Prior law required licensed operators to file an application and pay a permit fee for each live card game tournament conducted, up to a total of 12 tournaments per year. The new law requires licensed operators to apply for annual permits to conduct live card game tournaments. By law, the type of permit required will depend on the amount of

entry fees authorized by the individual tournament rules. Unlike the small-stakes tournaments, the large-stakes tournaments will require individual notification to, and approval from, the department.

This new rule is reasonable and necessary to formulate the operational framework for permitting and regulating these new large-stakes tournaments. This rule creates a new "Form 14A" to be used by operators to apply for the annual large-stakes tournament permit. Further, because of the limited number of large-stakes tournaments an operator may conduct each year, the law requires the permit holder to give the department prior notification for each large-stakes tournament. The rule instructs the operator to utilize the same large-stakes permit application form to notify the department of each proposed large-stakes tournament. The rule also informs the large-stakes permit holder of the information that must be included in the notification form, and the alternative methods for submitting the notification form to the department.

The department must receive prior notice for each proposed large-stakes tournament in order to approve the proposed tournament rules. The prior notice is necessary for the department to maintain a running tally of the number of large-stakes tournaments conducted each year for each permit holder. This tally must include those tournaments designated as charitable, since the first three charitable tournaments are not to be counted against the total number of authorized large-stakes tournaments.

Pursuant to this rule, the department will mail to the operator a copy of an individual permit for each large-stakes tournament to be conducted. This individual permit will notify the operator that the department has received and approved the tournament notification, and it will inform the operator of the department's tally of the number of large-stakes permits approved for that operator during the permit year. Additionally, the conspicuously posted permit will notify players, investigators or other law enforcement officials, that the tournament being conducted on the premises has been approved by the department as a large-stakes tournament.

**NEW RULE II SMALL-STAKES CARD GAME TOURNAMENTS** (1) A licensed operator with a permit to operate at least one live card game table on premises may apply to the department for an annual permit to conduct small-stakes card game tournaments. The application must be submitted on Form 14B, the small-stakes card game tournament permit application, which is available from the department. The annual permit fee must accompany the submission of the application. The small-stakes card game tournament permit is effective July 1 through June 30.

(2) The only consideration that may be paid to participate in a small-stakes card game tournament is a single entry fee which must be paid before the start of the tournament, and may under no circumstances exceed \$80. No other fees or costs may be assessed to participate in a small-stakes tournament.

(3) Small-stakes card game tournaments may only be conducted on permitted card tables, plus one additional card table used only for small-stakes tournament play.

AUTH: 23-5-115, MCA

IMP: 23-5-317, MCA

RATIONALE AND JUSTIFICATION: As noted under New Rule I, the 2013 Legislature enacted HB 141, which in part authorized the creation of a two-tiered permit system for live card game tournaments – "large-stakes" and "small-stakes" tournaments. By law, the type of permit required will depend on the amount of entry fees authorized by the individual tournament rules.

The new law creates an annual small-stakes permit which will allow operators of permitted live card tables to conduct daily live card game tournaments where the total cost to enter the tournament does not exceed \$80. Unlike the large-stakes tournaments, an operator who holds a small-stakes live card game tournament will not provide prior notification to, or receive individual tournament approval from, the department for each small-stakes tournament conducted by the permit holder. This new rule is therefore reasonable and necessary to create the operational framework for permitting and regulating these new small-stakes tournaments. It creates a new "Form 14B" for applying for the small-stakes tournament permits, and instructs operators how to apply to the department for the annual small-stakes tournament permit.

4. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

23.16.102 APPLICATION FOR GAMBLING LICENSE - LICENSE FEE

(1) through (3)(e) remain the same.

(4) Forms 10 and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming).

(5) remains the same.

AUTH: 23-5-112, 23-5-115, 23-5-621, MCA

IMP: ~~16-4-414~~, 23-5-115, 23-5-118, 23-5-128, 23-5-129, 23-5-177, 23-5-178, 23-5-308, 23-5-324, 23-5-513, 23-5-625, ~~23-5-637~~, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification purposes only; no substantive changes are intended.

23.16.103 INVESTIGATION OF APPLICANTS, FINGERPRINTS TO BE REQUIRED - DISCLOSURE FROM NONINSTITUTIONAL LENDER (1) and (2) remain the same.

(3) The department may require any noninstitutional lender to complete a document (Form 13) authorizing examination and release of information and (Form 10) a personal history statement on the lender, fingerprints on a form provided by the department, as well as any contract, statement, or other document from the lender deemed necessary to assess the suitability of an applicant's funding source

as required in 23-5-176, MCA. The document must be signed and dated by the lender and attested to by a notary public. Forms 13, 10, and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming).

AUTH: 23-5-115, MCA  
IMP: ~~16-4-414~~, 23-5-112, 23-5-115, 23-5-118, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended.

23.16.107 GROUNDS FOR DENIAL OF GAMBLING LICENSE, PERMIT, OR AUTHORIZATION (1) through (1)(h) remain the same.

- (i) been voluntarily or involuntarily dissolved as ~~a corporation~~ an entity;
- (j) through (2) remain the same.

AUTH: 23-5-112, 23-5-115, MCA  
IMP: 23-5-115, 23-5-176, MCA

RATIONALE AND JUSTIFICATION: Because the department licenses a variety of legal entities (e.g., corporations, limited liability companies, limited liability partnerships, etc.), this rule amendment is reasonable and necessary to include a broader reference in order to include all legal entities, not just corporations, which are subject to the same qualifications for licensure, and whose licenses or permits are subject to denial or revocation when that entity has been dissolved by the Secretary of State.

23.16.110 ASSOCIATED GAMBLING BUSINESS LICENSE (1) through (2) remain the same.

- (a) an application using Form 17, with special instructions, and Form FD-258, which are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming);

- (b) through (5) remain the same.

AUTH: 23-5-112, 23-5-115, 23-5-178, MCA  
IMP: 23-5-115, 23-5-178, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended.

23.16.401 APPLICATION FOR DEALER LICENSE (1) and (2) remain the same.

(3) The application for a dealer license, Forms 4 and FD-258, are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming).

AUTH: 23-5-112, 23-5-115, MCA  
IMP: 23-5-115, 23-5-308, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended.

23.16.407 CONFISCATION OF TEMPORARY DEALER LICENSE

(1) remains the same.

(a) the holder of such license has been placed or remains in actual or constructive custody as a result of any felony or gambling-related misdemeanor and is awaiting trial on such criminal charges; or

~~(b) the holder of such license has not affixed the certified mail receipt to the license as required by these rules; or~~

~~(c) a certified mail receipt is affixed to such license but displays no postmark as required by these rules; or~~

~~(d) the license has expired; or~~

~~(e) the department, pursuant to ARM 23.16.203(1), has notified the holder of such a license of the department's intent to deny a permanent dealer license to the holder; or~~

~~(f) the department has returned an incomplete dealer license application and the applicant has not acted within 15 days of mailing by the department to correct the deficiency.~~

AUTH: 23-5-115, MCA  
IMP: 23-5-115, 23-5-308, MCA

RATIONALE AND JUSTIFICATION: Prior to 2007, temporary card dealer licenses were obtained at local driver's license stations, and under the rules at that time, applicants for temporary licensure were required to attach to their temporary license a certified mail receipt for the purpose of demonstrating to an investigator or other law enforcement officer that the applicant had mailed their completed application to the department.

Due to some abuses of that process, the legislature in HB 190, L. 2007, amended 23-5-308, MCA, and as a result, the department made substantial amendments to the process in ARM 23.16.406, by which temporary card dealer licenses are obtained. Under current rule, an applicant for temporary card dealer licensure must personally appear before a department investigator to submit an application. As a result, the grounds for confiscation of a temporary card dealer license need not include a failure to abide by provisions of the superseded system. These amendments are therefore reasonable and necessary to harmonize the

administrative procedures for the confiscation of a temporary license to the requirements of current law and administrative rule.

23.16.502 APPLICATION FOR OPERATOR LICENSE (1) All applicants shall submit the following information on Forms 30 and FD-258, ~~as those forms read on December 1, 2005,~~ which are incorporated by reference and available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming):

(a) through (2) remain the same.

AUTH: 23-5-112, 23-5-115, MCA

IMP: ~~16-4-414~~, 23-5-115, 23-5-118, 23-5-176, 23-5-177, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended. This amendment also omits reference to the forms' revision date, which will allow the department to revise forms as necessary without the need to amend the rules.

23.16.1101 CARD GAME TOURNAMENTS – POKER TOURNAMENT DIRECTORS ASSOCIATION RULES (1) remains the same.

~~(2) If a licensed operator with a permit for operating at least one live card game table on its premises wishes to conduct a card game tournament, the operator shall submit an application to the department for a card game tournament permit. Form 14, the card game tournament permit application, is available from the department upon request. The application must include:~~

- ~~(a) licensed operator's name;~~
- ~~(b) operator license number;~~
- ~~(c) location of the card game tournament;~~
- ~~(d) type of game to be played;~~
- ~~(e) number of tables to be used during the tournament;~~
- ~~(f) date of the tournament;~~
- ~~(g) amount of entry fee;~~
- ~~(h) amount of cash prizes;~~
- ~~(i) \$10 processing fee; and~~
- ~~(j) copy of the tournament rules, which must identify the face value of the~~

~~chips to be used.~~

~~(3) The card game tournament application should be received by the department at least ten working days before the start of the tournament. The department may process an application received by FAX but shall not issue a permit on such an application until the fee is received by the department. An application may not receive approval if received by the department with less than ten working days before the start of the tournament.~~

Except where there is a conflict with state law, department rule, or the applicable authority references, all poker tournaments shall comply with the most recent version of the Poker Tournament Directors Association Rules. The Poker



Tournament Directors Association Rules may be obtained from the Gambling Control Division web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming).

(4) remains the same but is renumbered (3).

~~(5)(4)~~ In a Every card game tournament involving poker or panguingue, each card game must be conducted by a licensed dealer as required in 23-5-309, MCA. In addition, a designated person, who may be one of the licensed dealers, must be present on the premises at all times during the tournament to oversee the conduct of the games and settle disputes.

~~(6)~~ The only consideration that may be paid by a tournament participant is:

~~(a)~~ an entry fee; and

~~(b)~~ a fee paid to reenter the tournament after being eliminated from competition, if permitted to do so under tournament rules.

~~(7)~~ Under no circumstances may the total amount paid by an individual, including entry and reentry fees, exceed \$2,500 for tournament play.

~~(8)~~ A card game tournament permitted under these rules may be part of a progressive card game tournament in which the ultimate prize is not awarded until completion of the final round of the progressive tournament.

~~(a)~~ The tournament must be publicly identified as being part of a progressive tournament prior to initiation of the tournament.

~~(b)~~ Each location that participates in the progressive tournament must obtain a card game tournament permit.

~~(c)~~ If the tournament is part of a progressive tournament, prize(s) may include the right to participate in the higher level of tournament play, so long as the value of the higher level tournament is equal to the value of the expected top prize in the tournament.

~~(9)(5)~~ Winners are All winners must be determined at the conclusion of the tournament based upon points or chips accumulated throughout the course of the tournament. Prizes may only be awarded at the conclusion of the tournament. Any determination of a winner or award of a prize concludes a tournament.

~~(10)~~ A tournament may not be conducted for more than five consecutive days. Card games may not be conducted between the hours of 2 a.m. and 8 a.m. each day unless the hours for operating a live card game table have been extended by a city or county ordinance. An operator may conduct up to 12 card game tournaments per year.

~~(11)~~ An operator's card game tournament permit must be posted and clearly visible to the public. The permit is specific to an operator and location.

~~(12)~~ For any card game tournament that is represented as a charitable tournament, no less than 50% of the total of all entry and reentry fees must be paid to charitable, educational, or recreational nonprofit organization(s).

~~(13)~~ For each card game tournament, the location operator shall maintain for a period of 12 months and must provide to the department upon request a record of all entry fees and reentry fees paid by each participant. In addition, if the tournament was represented as a charitable tournament, the location operator shall also maintain for a period of 12 months, and provide to the department upon request, a record of the distribution of the tournament proceeds.

~~(14)(6)~~ No card game tournament may be conducted as any part of a casino night.

(7) Card game tournaments may not be conducted between the hours of 2 a.m. and 8 a.m. on any day unless the hours for operating a live card game table have been extended by a city or county ordinance.

(15) remains the same but is renumbered (8).

AUTH: 23-5-115, ~~23-5-311~~, MCA

IMP: 23-5-306, ~~23-5-311~~, 23-5-317, MCA

RATIONALE AND JUSTIFICATION: As noted under New Rule I and New Rule II, the 2013 Legislature enacted HB 141, which in part authorized the creation of a two-tiered permit system for live card game tournaments. The amendments proposed to this rule are necessary to reflect those changes in law, and the creation of New Rule I and New Rule II which are made to implement the new law. These proposed rule amendments leave intact those aspects of current tournament rules which apply to both large-stakes and small-stakes tournaments.

Additionally, as recommended by the Gaming Advisory Council, the department proposes to adopt in this rule a requirement that live poker tournaments adhere to the Poker Tournament Directors Association Rules to the extent they do not conflict with state law or administrative rules. This change is intended to implement statewide uniformity in many of the rules of conduct for poker tournaments.

23.16.1201 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) remains the same.

(2) "Authority reference" means Official Montana Poker Rulebook (~~1990 Edition~~) and Scarne's Encyclopedia of Card Games, copyright 1983, by John Scarne, pages 18 through 276. These books will be used by the department as the authority on how to play authorized card games. The authority references are adopted and incorporated by reference; copies of Scarne's Encyclopedia of Card Games may be obtained from local bookstores and copies of the Official Montana Poker Rulebook may be obtained for ~~\$5.00 per copy~~ from the Gambling Control Division, ~~2550 Prospect Ave., P.O. Box 201424, Helena, Montana 59620-1424~~ web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming). The sections of the books cited as authority will not apply where there is a conflict with state law or department rule.

(3) through (19) remain the same.

AUTH: 23-5-115, MCA

IMP: 23-5-115, 23-5-311, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public how they may obtain a copy of the Official Montana Poker Rulebook online and free of charge.

23.16.1216 PLAYER RESTRICTIONS (1) through (3) remain the same.

(4) No player or other person may provide any information to any other player or person regarding the a player's live or folded hand. ~~No person may provide any information to any other person regarding a player's live or folded hand.~~

(5) and (6) remain the same.

AUTH: 23-5-115, MCA

IMP: 23-5-311, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is proposed for clarification and ease of reading purposes only; no substantive changes are intended.

23.16.1224 DEALER RESTRICTIONS (1) ~~In~~ Except as provided in (3), in authorized card games using licensed dealers, licensed dealers shall have no financial interest, directly or indirectly, in the outcome of any game which they deal.

(2) and (3) remain the same.

AUTH: 23-5-115, MCA

IMP: 23-5-308, 23-5-309, 23-5-311, 23-5-324, MCA

RATIONALE AND JUSTIFICATION: This proposed amendment seeks to clarify that the restriction in (1) relating to a dealer's financial interest in the outcome of a game does not apply if the dealer is himself or herself the licensed operator or card room contractor who is conducting the game. This is current law and the proposed amendment is offered for clarification, consistency within the rule, and ease of reading.

23.16.1225 HOUSE PLAYERS (1) and (2) remain the same.

(3) No house players may be used by the operator or card room contractor in a card game tournament.

AUTH: 23-5-115, 23-5-325, ~~23-5-710~~, MCA

IMP: 23-5-311, 23-5-324, 23-5-325, MCA

RATIONALE AND JUSTIFICATION: This proposed amendment is reasonably necessary to clarify that the authorized use of house players does not include tournaments. By rule, the use of house players is limited to starting or maintaining a sufficient number of players in a card game. Given the nature of tournaments, there is no valid reason that house players would be used. This rule is intended to clarify the role of house players and promote consistency throughout the rules.

23.16.1232 OPERATION OF THE GAMES –TABLE STAKES (1) remains the same.

(2) The operator or card room contractor may set a minimum buy-in, a maximum buy-in, or both, for each game. The operator or card room contractor

must announce the length of time a player may leave the game and still be considered part of the same playing session.

(3) through (7) remain the same.

AUTH: 23-5-115, MCA  
IMP: 23-5-309, 23-5-311, 23-5-311, 23-5-312, 23-5-313, 23-5-324,  
MCA

**RATIONALE AND JUSTIFICATION:** During the Gaming Advisory Council's evaluation of live card games, some public comments addressed a problem occurring in live poker games where certain players with a bankroll larger than other players would immediately go all-in, which would typically cause all other players to fold. As a result, the games often devolved into what was termed "poker bingo," where the winning pot simply moved from one player to the next, depending on who went all-in, and as a result many players would lose interest and leave the table. In addition to increasing the maximum pot limits to address this problem, it was suggested that the department could establish by rule a requirement for table stakes in non-tournament poker games. A table stakes requirement would limit the amount of money (value in chips) a player could bring to a table to buy-in.

This rule currently recognizes that an operator or card room contractor may establish by house rule a minimum buy-in, which must be posted. This proposed amendment is therefore reasonable and necessary to clarify that an operator may also establish, by house rule, a maximum buy-in limit, as that may tend to level the playing field among the players. As proposed by this rule amendment, it will be left to the operator or card room contractor to determine whether or not to establish either a minimum buy-in limit, a maximum buy-in limit, or both such limits.

**23.16.1237 BETTING** (1) A player who unintentionally puts ~~less~~ fewer chips into the pot than are needed to call a bet must either complete the call or withdraw his or her chips and fold.

(2) If an improper number of chips are bet by a player and the dealer puts the player's chips into the pot without making or hearing an immediate objection, it must be considered a bet by the player.

(3) through (6) remain the same.

AUTH: 23-5-115, MCA  
IMP: 23-5-309, 23-5-311, 23-5-312, 23-5-313, MCA

**RATIONALE AND JUSTIFICATION:** This proposed rule amendment is proposed for clarification and ease of reading purposes only; no substantive changes are intended.

**23.16.1240 POSTING OF RULES** (1) through (1)(d) remain the same.

(e) Minimum and/or maximum buy-in limits (if any).

(f) ~~\$300~~ \$800 pot limit.

(g) through (o) remain the same.

(p) ~~Players may request that house players be identified~~ House players identified upon request.

(2) remains the same.

AUTH: 23-5-115, MCA

IMP: 23-5-309, 23-5-312, 23-5-313, 23-5-324, 23-5-325, MCA

RATIONALE AND JUSTIFICATION: The 2013 Legislature enacted HB 141, which in part increased the prize limit for an individual live card game from \$300 to \$800. The proposed amendment is necessary to harmonize the terms of this rule with the new law. The amendment also proposes changes which will coordinate with the amendments proposed to ARM 23.16.1232 to allow an operator to set a maximum buy-in limit, and makes other minor nonsubstantive changes in style for clarification and ease of reading purposes.

23.16.1701 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) through (2)(b) remain the same.

(3) "Interval of a sporting event" means the regularly timed periods or naturally occurring breaks in a sports event established by the rules of the event (i.e., quarters in football and basketball games, periods in hockey, or innings in a baseball game) and not any other contrived point, action, event, or episode in the sports event.

(3) through (13) remain the same but are renumbered (4) through (14).

(15) "Total value of the sports pool" means an amount equal to the number of chances in a sports pool multiplied by the cost per chance and represents the prize(s) to be awarded.

AUTH: 23-5-115, 23-5-512, MCA

IMP: 23-5-501, 23-5-502, 23-5-503, 23-5-512, MCA

RATIONALE AND JUSTIFICATION: These proposed rule changes are reasonable and necessary to clarify by definition certain terms used in the administrative rules regarding sports tabs and sports pools. The proposed definition of an "interval of a sporting event" seeks to clarify when prizes may be awarded, rather than upon contrived events such as the first turnover of a game, the first fumbled ball, or every score, etc. The proposed definition of the term "total value of the sports pool" attempts to eliminate confusion about the value of the prize to be won. Some sports pools have an odd number of participants (e.g., NASCAR) where the prize money taken in does not always reach the level of the maximum allowed. Additionally, some sports pools are designed to award merchandise as the prize and this definition should help to enforce the rule which requires the operator to pay the winner the merchandise plus a cash balance if the purchase price of the merchandise is less than the total value of the sports pool.

23.16.1702 SPORTS POOL CARD (1) and (2) remain the same.

(3) A participant who wishes to purchase a chance on more than one traditional, series, or multiple way sports pool must select a space or spaces on each of the boards. After the sale of all chances, the master square of any such board may not be duplicated or altered in any manner so as to create additional sports pool boards.

(3) and (4) remain the same but are renumbered (4) and (5).

(5)(6) A sports pool card must be retained by the person conducting the sports pool until all prizes are awarded or for 30 days after for at least one year from the date of the sports event, or last event in a series of sports events, whichever occurs first, upon which the sports pool was based.

AUTH: 23-5-115, 23-5-512, MCA

IMP: 23-5-502, 23-5-503, 23-5-512, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is intended to clarify that sports pool boards may not be duplicated in any manner so as to increase wagers and payouts beyond the limits set by law. Each sports pool board must be sold separately and numbers must be randomly assigned to squares on each board separately. In the past, the department found some board operators who would sell one board and assign numbers to each square, then copy the board several times, and charge participants multiples of the maximum wager corresponding to the number of copies made, and advertise payouts at the same level of multiples of the maximum.

Additionally, the rule amendment proposes a records retention period that is consistent with the requirement for sports tabs in ARM 23.16.1715. Because of the 2013 Legislature's passage of HB199, which increased bets and payout for sports pools and sports tabs by 500%, sports pools and sports tabs will now be offering some of the largest gambling payouts in Montana. Therefore, this extended period of time for record retention will be critically important to maintain a record in the event a participant complains that a sports pool prize was not properly awarded. As this proposed retention period is consistent with the retention periods required for other gambling activities, it should not pose any special burden for the operator.

23.16.1703 SALE OF SPORTS POOL CHANCES (1) The total cost of a chance shall not exceed \$5 ~~\$25~~ per sports event, or ~~\$25 per sports event for a series sports pool as described in 23.16.1705(3)(b),~~ and must be paid in full and in cash at the time the chance is selected.

(2) through (4) remain the same.

(5) All money paid to participate in a sports pool must be maintained separately from all other monies. No portion of the money collected in the sale of sports pool chances, including any share designated for charitable purposes, if any, may be separated from the total amount of proceeds collected on the sports pool board until after the sports event upon which the pool was based has occurred.

AUTH: 23-5-115, 23-5-512, MCA

IMP: 23-5-502, 23-5-503, 23-5-512, MCA

RATIONALE AND JUSTIFICATION: The 2013 Legislature enacted HB 199, which increased the bet and payout limits for sports pools and sports tabs by 500%. The proposed amendments are therefore necessary to harmonize the bet limits referenced in this rule with the new law.

Additionally, the rule amendment proposes to require the operators of sports pools keep the monies collected on the sports pool separate from other monies. This requirement will eliminate the comingling of monies paid on separate sports pools, which will assist investigators when they conduct premises inspections. Currently, some operators of sports pools collect the money paid by participants in the till, or in a common pot with other sports pools or other monies. This practice impedes an investigator's attempt to match the money collected on a sports pool with the number of participants marked as participating on the board. This frustrates a determination of whether or not the operator is allowing participants to play now and pay later, an unlawful credit gambling practice. This requirement will make a determination of sports board compliance easier and more accurate, particularly when an establishment offers multiple sports pools.

23.16.1704 DETERMINATION OF SPORTS POOL WINNERS - PRIZES

(1) remains the same.

(2) The prizes awarded to the winner or winners of a sports pool may be cash or merchandise but must not exceed a total value of ~~\$500~~ \$2,500 per sports event.

(a) Where the prize awarded is merchandise, the purchase price paid for the item(s) of the merchandise prize is considered to be the value of the prize. Proof of the purchase price of the item(s) of the merchandise prize shall be retained for a period of ~~30 days after~~ at least one year from the date of the sports event.

(b) and (3) remain the same.

(4) A nonprofit organization may retain up to 50 percent of the ~~value of proceeds from the sale of chances in~~ a sports pool if the ~~amount retained is used to support charitable activities, scholarships or educational grants, or community service activities. The nonprofit organization must maintain and open to inspection upon reasonable demand records to verify the use of the retained portion of the sports pool~~ nonprofit organization meets the requirements of 23-5-503, MCA.

AUTH: 23-5-115, MCA

IMP: 23-5-502, 23-5-503, 23-5-512, MCA

RATIONALE AND JUSTIFICATION: The 2013 Legislature enacted HB 199, which increased the bet and payout limits for sports pools and sports tabs by 500%. The proposed amendments are therefore necessary to harmonize the new prize limits with those referenced in this rule.

Additionally, the rule amendment proposes to require the operators of sports pools to maintain a record of the price paid for merchandise for a one-year period, which is a reasonable period of time. The proposed records retention period is identical to the records retention period required in ARM 23.16.1715 for proof of the price of the merchandise awarded in a sports tab game. The department has encountered operators of sports pools who were proposing to award prizes in

merchandise with less value than the total value of the sports pool. This requirement will assist investigators to ensure that the total value of a sports pool is paid to the winning participants.

The amendment also proposes other nonsubstantive changes in style for clarification and ease of reading purposes.

23.16.1705 AUTHORIZED SPORTS POOLS (1) through (3)(c) remain the same.

(d) A "selected point sports pool" in which the winner is the participant whose assigned competitor is the first to attain a final score that matches a predetermined number (e.g., 28, 39). If in a given week none of the competitor's scores match the predetermined number, the prize is carried over to the next and subsequent weeks until a match occurs. However, the pool must be designed to ensure that a prize does not exceed the value of ~~\$500~~ \$2,500. The number of participants in a selected point sports pool is limited to the number of competitors in an established league. Competitors are randomly assigned to the participants and may be assigned for a single week or the duration of the pool.

(e) through (g) remain the same.

AUTH: 23-5-115, 23-5-512, MCA

IMP: 23-5-502, 23-5-503, 23-5-512, MCA

RATIONALE AND JUSTIFICATION: The 2013 Legislature enacted HB 199, which increased the bet and payout limits for sports pools and sports tabs by 500%. The proposed amendment is therefore necessary to harmonize the new prize limits with those referenced in this rule.

23.16.1712 DESIGN AND CONDUCT OF SPORTS TAB GAME (1) through (5) remain the same.

(6) All money paid to participate in each sports tab game shall be kept separate from any other money. No share for charitable contributions or administrative expenses may be separated from the total amount collected until after the sports event has occurred.

AUTH: 23-5-115, MCA

IMP: 23-5-501, 23-5-503, MCA

RATIONALE AND JUSTIFICATION: This proposed rule amendment is necessary to require the sponsor of a sports tab game to keep the monies collected on the sports tab game separate from all other monies. Consistent with the proposed amendment to ARM 23.16.1703, this requirement will eliminate the comingling of monies paid on separate sports tab games (or from other sources), which will have the beneficial effect of assisting investigators when they conduct premises inspections. Currently, some operators will keep monies collected on a sporting event in the till, or in a common pot with wagers on other events. This practice makes it difficult for an investigator to determine whether all participants have paid to participate in the gambling activity. This requirement will make a



determination of compliance with the rules of sports tab games easier and more accurate.

23.16.1713 PURCHASE AND SALE OF SPORTS TABS BY SPONSOR – LICENSURE (1) and (2) remain the same.

(3) The total cost of each sports tab on the same sports tab card must be identical and may not exceed ~~\$5~~ \$25. A participant shall pay cash for the sports tab at the time the tab is selected.

(4) remains the same.

AUTH: 23-5-115, 23-5-178, MCA

IMP: 23-5-178, 23-5-502, 23-5-503, MCA

RATIONALE AND JUSTIFICATION: The 2013 Legislature enacted HB 199, which increased the bet and payout limits for sports pools and sports tabs by 500%. The proposed amendment is therefore necessary to harmonize the new bet limits for sports tab games with those referenced in this rule.

23.16.1714 SPORTS TAB GAME PRIZES (1) through (3) remain the same.

(4) The total value of all prizes awarded in a sports tab game may not exceed ~~\$500~~ \$2,500. Prizes must be in cash or merchandise.

(5) through (7) remain the same.

AUTH: 23-5-115, MCA

IMP: 23-5-502, 23-5-503, MCA

RATIONALE AND JUSTIFICATION: The 2013 Legislature enacted HB 199, which increased the bet and payout limits for sports pools and sports tabs by 500%. The proposed amendment is therefore necessary to harmonize the new prize limits for sports tab games with those referenced in this rule.

23.16.1716 SPORTS TAB GAME SELLER LICENSE (1) remains the same.

(a) a sports tab game seller license application. Form FD-258 is available upon request from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming);

(b) Form 10 as described in ARM 23.16.102, available upon request from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming);

(c) through (4) remain the same.

AUTH: 23-5-112, 23-5-115, MCA

IMP: 23-5-115, 23-5-502, 23-5-503, 23-5-513, MCA

RATIONALE AND JUSTIFICATION: These rule amendments are reasonable and necessary to inform licensees and the general public where license application

forms may be obtained online. These amendments are made for clarification and informational purposes only; no substantive changes are intended.

23.16.1719 SPORTS TAB GAME SELLER RECORD KEEPING REQUIREMENTS - DECAL INVENTORIES (1) remains the same.

(2) A sports tab game seller shall maintain records documenting the total number of sports tab cards sold, the sponsor, and the sports tab tax decal serial number as affixed to each sports tab game card by serial number. The sports tab game seller must maintain these records, and make the records available to the department upon request, for a minimum of 12 full quarters from the previous quarterly tax return due date. Such records shall document:

(a) the total number of sports tab games sold by referencing the sports tab game by game serial number and corresponding sports tab tax decal serial number ~~to the sponsor,~~ including the sponsor's name, license number, address, and phone number; and

(b) the amount and serial numbers of sports tab ~~tax game~~ decals remaining in the sports tab game seller's possession.

(3) A sports tab game seller may not transfer sports tab tax decals to any person, except when affixed to a sports tab card. If sports tab game sellers wish to reduce their sports tab tax decal inventory, they may only return the decals to the department. If sports tab game sellers cease to sell sports tab games, they shall file, within 15 days following the date upon which they terminated sales, a report on a form provided by the department, remit any tax due, and return all unused sports tab tax decals.

(4) A sports tab game seller shall return any sports tab tax decals to the department upon request of the department.

AUTH: 23-5-115, MCA  
IMP: 23-5-502, 23-5-503, MCA

RATIONALE AND JUSTIFICATION: In 2011, department investigators discovered certain abuses of the regulatory framework involving sports tab games, including specifically misuses of state sport tab tax decals. As a result of those abuses, as well as the 2013 Legislature's increase of sports tab game wagers and prize payouts by 500%, the department proposes to change the regulatory procedures for sports tab games through the use of serialized and bar-coded sport tab tax decals, which will improve the regulation of the sale of sports tabs and sports tab games.

Currently, the department issues state tax decals to licensed sports tab game sellers, who then affix the tax decals to sports tab game boards, and sell those game boards to operators (or licensed sponsors) who in turn sell the individual tabs to customers. However, the current tax decals are indistinct from one other, and department investigators are unable to determine who was issued a particular decal, or who may have affixed the sports tab tax decal to a particular sports tab board game.

As proposed by this rule amendment, a licensed sports tab game seller will be issued sports tab tax decals by serial number. The seller will then affix a tax

decal to a particular sports tab game board and record the serial numbers from each instrument. Through this procedure, an investigator will have the ability to determine whether the decal was legitimately issued by the department, whether the sports tab tax decal is affixed to the correct game board, and whether the game board was purchased from the licensed sports tab game seller on record.

23.16.1826 QUARTERLY REPORTING REQUIREMENTS (1) through (1)(b) remain the same.

(i) for tier I systems, all electronic meter readings and all events set out in ARM 23.16.2105 for each ~~week~~ day the machine is in operation, and the last set of meter readings received before the end of the quarter (meter readings received no more than seven days before the end of the quarter) will be used as quarter end readings for purpose of calculating a tax advisory to be sent to machine owners;

(ii) for tier II systems, all electronic meter readings for each week or two week period for which the machine is approved to report, and within 14 days prior to the end of the quarter but not later than seven days of after the last day of each quarter, all electronic and mechanical meter readings, along with an indication that it is the last reading to be reported in the quarter; and

(iii) through (2)(c) remain the same.

(3) Form 6 is a quarterly video gambling machine tax report; Form 6 is incorporated by reference and is available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming).

(4) through (6) remain the same.

AUTH: 23-5-115, ~~23-5-605~~, 23-5-621, MCA

IMP: ~~23-5-115~~, 23-5-136, 23-5-610, 23-5-621, 23-5-637, MCA

RATIONALE AND JUSTIFICATION: The department has authorized the use of automated accounting and reporting systems to record and communicate to the department, in electronic form, certain video gambling machine accounting information and records of video gambling machine events. Tier I is the most automated of the different types of automated accounting and reporting systems, and is only recently being introduced for use in this jurisdiction. This proposed amendment modifies the meter reporting frequency required for machines reporting on a Tier I system from each week to each day. This change is necessary to match the frequency of the reports for Tier 1 systems to correspond to the department business practices of clearing daily all reporting exceptions for machines reported on Tier I systems. Because these types of reports are automated through the Tier I system, the proposed change will have no adverse impact on operators who use that system.

The proposed rule amendment also proposes to change the reporting requirements for users of a Tier II automated accounting and reporting system. A Tier II system communicates video gambling machine record information to a state-sponsored internet site. Tier II is less automated and requires more manual handling of information than does a Tier I system. Some video gambling machine owners who report information on a Tier II system have machines in locations in

remote areas of the state, and may only visit those locations once every two weeks to gather meter data and maintain the machines. As result, those visits to gather the machine data fall outside the current reporting time frame required by this rule. The legislature authorized the use of automated accounting and reporting systems, in part, to lessen the administrative and record keeping burdens for licensed machine owners and the department. By this amendment, the department is extending the number of days before the end of the quarter during which meter data may be taken and reported. These proposed amendments are therefore necessary to reflect reporting time frames which meet the business realities for users of the Tier II systems. The department also notes that in the event some machine accounting information is not reported in the quarter due to the 14-day extension, that information will be reported in the succeeding quarter, and therefore the process reflected by the proposed amendments conforms to the department's current standards and reporting requirements.

Finally, the proposed amendment informs licensees and the general public where license application forms may be obtained online. This amendment to (3) is nonsubstantive and offered for clarification and informational purposes only.

23.16.1826A REPORTING FREQUENCY FOR APPROVED AUTOMATED ACCOUNTING SYSTEMS – EXCEPTIONS (1) Tier I systems shall transmit the information required by ARM 23.16.2105 in ~~seven~~ each day reporting intervals.

(2) through (4) remain the same.

AUTH: 23-5-621, MCA

IMP: 23-5-610, 23-5-621, 23-5-637, MCA

RATIONALE AND JUSTIFICATION: As noted in the proposed amendments to ARM 23.16.1826, the department has authorized the use of automated accounting and reporting systems to record and communicate to the department in electronic form video gambling machine accounting information and records of video gambling machine events. A Tier I system is the most automated of the different types of reporting systems. However, a Tier I system does not capture and report any mechanical meters from the video gambling machines. In order to avoid a potential loss of meter data in the event of a system outage, it is critical that the department obtain daily electronic meter readings captured by the Tier I system.

This change is proposed so that the frequency of reports will match/provide the information necessary for the department business practices of clearing daily all reporting exceptions for machines reported on a Tier I system. Because the meter reports are completed automatically through a Tier I system, this rule amendment will have no adverse impact on licensed machine owners.

23.16.1906 GENERAL SOFTWARE SPECIFICATIONS FOR VIDEO GAMBLING MACHINES (1) remains the same.

(a) the random number selection process shall conform to an acceptable random order of occurrence and uniformity of distribution as defined by the department;

~~(b) the field of numbers must be mixed after each game by using a random number generator;~~

~~(c) after the field of numbers has been mixed and before the start of the game the field of numbers is to be frozen with all numbers used for play taken in order from the top of the frozen field;~~

~~(d) through (k) remain the same but are renumbered (b) through (i).~~

~~(2) through (4) remain the same.~~

AUTH: 23-5-115, ~~23-5-602~~, 23-5-621, MCA

IMP: ~~23-5-111, 23-5-112, 23-5-115, 23-5-151~~, 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-611, 23-5-621, 23-5-631, 23-5-637, MCA

RATIONALE AND JUSTIFICATION: The proposed rule amendment is reasonable and necessary because the "field of numbers," as described in the current rule, does not exist in most modern random number generator (RNG) implementations. The proposed amendment allows the department to establish that the best practices of RNG processes to be defined and facilitated through published video gambling machine (VGM) requirements. VGM requirements are developed with input from VGM manufacturers, and posted on the department's web page.

23.16.1913 USE OF TEMPORARY REPLACEMENT OR LOANER MACHINES - PERMIT REQUIRED - REPORTING (1) remains the same.

(2) Any operator placing a temporary replacement machine in service must notify the department on a form prescribed by the department. An application to place a temporary replacement machine in service is incorporated by reference as Form 7 and is available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming).

(3) through (6) remain the same.

AUTH: 23-5-115, ~~23-5-603~~, 23-5-621, MCA

IMP: 23-5-111, 23-5-603, 23-5-611, 23-5-612, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended.

23.16.1914 DISTRIBUTOR'S LICENSE (1) remains the same.

(a) a distributor's license application, Forms 17 and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming);

(b) through (3) remain the same.

AUTH: 23-5-112, 23-5-115, MCA

IMP: 23-5-115, 23-5-128, 23-5-176, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended.

23.16.1915 ROUTE OPERATOR'S LICENSE (1) remains the same.

(a) a route operator license application, Forms 17 and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming);

(b) through (3) remain the same.

AUTH: 23-5-112, 23-5-115, MCA

IMP: 23-5-115, 23-5-129, 23-5-176, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended.

23.16.1916 MANUFACTURER'S LICENSE (1) remains the same.

(a) a manufacturer's license application, Forms 17 and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming);

(b) through (3) remain the same.

AUTH: 23-5-112, 23-5-115, MCA

IMP: 23-5-115, 23-5-176, 23-5-625, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended.

23.16.1916A ACCOUNTING SYSTEM VENDOR LICENSE (1) remains the same.

(a) application for an accounting system vendor license using Form 17, with special instructions, and Form FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming);

(b) through (3) remain the same.

AUTH: 23-5-112, 23-5-115, 23-5-178, 23-5-621, MCA

IMP: ~~23-5-110~~, ~~23-5-112~~, 23-5-115, 23-5-178, 23-5-637, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to inform licensees and the general public where license application

forms may be obtained online. This amendment is made for clarification and informational purposes only; no substantive changes are intended.

23.16.1918 TESTING FEES (1) through (1)(b) remain the same.

(i) video gambling machines, ~~\$3,000~~ \$10,000;

(ii) automated accounting and reporting system, ~~\$2,000~~ \$15,000;

(iii) modification to an approved video gambling machine or automated accounting and reporting system, ~~\$300~~ \$1,000.

(2) and (3) remain the same.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-631, 23-5-637, MCA

RATIONALE AND JUSTIFICATION: As required by 23-5-631, MCA, the manufacturers pay in advance the anticipated actual costs of video gambling machine examination. Deposit fees have not been amended since 2002. The average cost of testing and approving new and modified video gambling machine submissions typically now exceeds the current deposit required for such tests. Therefore, the proposed increase in fee deposits, as reflected in the proposed amendments to this rule, is necessary to bring the payment closer to the anticipated actual costs which are incurred in the machine and system testing based on the department's experience in the past ten years.

23.16.1929 REPAIRING MACHINES - APPROVAL (1) remains the same.

(2) Any repair or replacement of a machine's logic board which may cause a loss of memory, change in program name or revision, or change in the meter reading must be reported to the Gambling Control Division of the Department of Justice on forms prescribed by the department at the time of the repair. The report requires the disclosure of the following information:

(a) through (5) remain the same.

AUTH: 23-5-115, ~~23-5-605~~, 23-5-621, MCA

IMP: 23-5-603, ~~23-5-605~~, ~~23-5-606~~, 23-5-616, 23-5-621, 23-5-631, MCA

RATIONALE AND JUSTIFICATION: In the past, issues have arisen from incorrect records of VGM program names because the department has not received notice of VGM program name or version changes. As proposed by this rule amendment, video gambling machine owners will be required to report a change in program name or version, even if there is no change in the meter readings. This amendment is necessary to make certain the department receives notification of all VGM program name changes or revisions, which results in a current record of the programs in the department's database.

23.16.2001 MANUFACTURER OF ILLEGAL GAMBLING DEVICES - LICENSE - FEE - REPORTING REQUIREMENTS - INSPECTION OF RECORDS - REPORTS (1) remains the same.

(a) a manufacturer license application, Form 17 is available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming);

(b) through (8) remain the same.

(9) Form 22 is available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site (~~[www.doj.mt.gov/gaming/forms.asp](http://www.doj.mt.gov/gaming/forms.asp)~~) [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming).

AUTH: 23-5-112, 23-5-115, 23-5-152, 23-5-621, MCA

IMP: ~~23-5-112~~, 23-5-115, 23-5-152, 23-5-611, 23-5-614, 23-5-621, 23-5-625, 23-5-631, MCA

**RATIONALE AND JUSTIFICATION:** These rule amendments are reasonable and necessary to inform licensees and the general public where license application forms may be obtained online. These amendments are made for clarification and informational purposes only; no substantive changes are intended.

**23.16.3103 GENERAL REQUIREMENTS** (1) through (1)(f) remain the same.

(g) ~~Only Cash or~~ merchandise may be awarded as prizes. The value of the merchandise is not restricted to the prize limitations provided for in 23-5-312, 23-5-412, or 23-5-413, MCA.

(h) through (k) remain the same.

AUTH: 23-5-115, 23-5-715, MCA

IMP: 23-5-701, 23-5-702, 23-5-705, 23-5-706, 23-5-710, 23-5-711, MCA

**RATIONALE AND JUSTIFICATION:** By SB 351, L.1999, the legislature amended 23-5-710, MCA, to, among other things, allow cash and merchandise to be awarded as prizes at casino nights. The administrative rule was not amended to reflect that change, and until recently the conflict remained unnoticed. This rule amendment is therefore reasonable and necessary to harmonize the administrative rule to the law.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; or e-mail [rask@mt.gov](mailto:rask@mt.gov), and must be received no later than 5:00 p.m., August 22, 2013.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless



a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 5 above or may be made by completing a request form at any rules hearing held by the department.

7. Cregg W. Coughlin, Assistant Attorney General, Gambling Control Division, has been designated to preside over and conduct the hearing.

8. An electronic copy of this proposal notice is available through the department's web site at <https://doj.mt.gov/agooffice/administrative-rules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirement of 2-4-302, MCA, does apply and has been fulfilled. The primary bill sponsor of HB141 and HB199 [L. 2013] was initially contacted on May 16, 2013 by e-mail and U.S. Postal mail.

10. This rulemaking proceeding was begun prior to July 1, 2013; therefore, the requirements of Chapter 318, Section 1, Laws of 2013, do not apply.

/s/ Tim Fox  
TIM FOX  
Attorney General, Department of Justice

/s/ Matthew T. Cochenour  
MATTHEW T. COCHENOUR  
Rule Reviewer

Certified to the Secretary of State July 15, 2013.